

Explanatory Memorandum to the Equine Identification (Wales) Regulations 2009

This Explanatory Memorandum has been prepared by the Farm Development Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. These Regulations implement Commission Regulation 504/2008 in order to improve current methods of equine identification and to ensure a harmonised approach across the EU. The main provision is the strengthening of the link between the horse and the information on its medicinal treatment which is recorded on its passport in order to reduce the risk of unsuitable horses entering the food chain. This will be achieved by means of an implanted micro-chip containing a unique identification number. Similar Regulations are being made in England, Scotland and Northern Ireland.

Matters of special interest to the Subordinate Legislation Committee

2. There are no matters of special interest to the committee.

Legislative Powers

3. The Regulations are made under section 2(2) of the European Communities Act 1972. The Regulations will be made under the negative resolution procedure.

Purpose and intended effect of the legislation

4. Commission Regulation (EC) no 504/2008 of 6 June implements Commission Decisions 90/426/EEC and 90/427/EEC and updates and replaces Commission Decisions 93/623/EEC and 2000/68/EEC establishing an identification system for all equidae. Under the current Regulations all horses in Wales are required to have a passport. The new Regulation builds on the existing system of a single identification document (passport), issued for life when the animal is born or imported. The UK must implement the Regulation in order to avoid costly infraction proceedings, to protect the horsemeat export trade and to retain the use of key equine medicines.
5. The legislation also makes provision for the exercise of a derogation in respect of defined groups of semi-feral ponies living in pre determined areas.

Implementation

6. It is intended that the Statutory Instrument will come into force on 1 October 2009. Similar legislation has been made in England (came into force on 1 August 2009) and Scotland (came into force on 1 July 2009).

Consultation

7. A 3 month consultation exercise was undertaken on the equine identification proposals between 12 November 2008 and 11 February 2009. The consultation generated 33 responses in total, full details are included below.

Regulatory Impact Assessment

8. A Regulatory Impact Assessment has been prepared for these Regulations and is included below.

Options

9. There are 4 options:

Option 1 - Do Nothing: Failure to implement Commission Regulation would be a breach of Community obligations and could lead to possible infraction proceedings. It is also believed that should the UK opt not to implement the Commission Regulation the EU would impose a ban on the export of UK horsemeat for human health reasons. Do nothing, is therefore not a feasible option.

Option 2 - Minimum implementation of the EU Regulation without the use of the derogations: This would fully transpose the requirements of Commission Regulation 504/2008 but would disadvantage some Welsh Horse Owners as some of these derogations are being exercised in respect of horse owners in England and Scotland.

Option 3 - Minimum implementation of the EU Regulation with use of all possible derogations: This is not favoured as one of the derogations being offered allows duplicate passports to show an animal temporarily excluded from the food chain for a period of 6 months instead of being definitively signed out of the food chain. This requires the owner to prove that the animal has not been treated with unsuitable veterinary products. The majority of those responding to the consultation were of the opinion that this derogation should not be applied as it would be very difficult to provide the guarantees that an animal had not received veterinary medicines.

Option 4 - Minimum implementation of the EU Regulation with use of selected derogations. This is the preferred policy option as it reduces implementation costs whilst maintaining appropriate safeguards to the human food chain.

Benefits

10. The main driver behind the EU regulation is protection of the human food chain. Improved equine identification will reduce the risk of human exposure to substances not permitted for the food chain. Phenylbutazone, a commonly used veterinary medicine, has been shown to cause aplastic anaemia in humans – a very serious auto immune condition which, if left undiagnosed, may cause death within 6 months. Passports of equines treated with such products have to show the animal as unfit for the food chain. Such measures will preserve the UK horsemeat export trade.
11. Improved equine identification, particularly the use of micro-chips to provide the link between the horse and information on its passport will improve the efficiency and effectiveness of disease control.
12. Linking the horse to a passport through a micro-chip will help identify animals in cases of fraud and aid in the recovery of stolen horses.
13. Failure to implement the new regulations could lead the EU Commission to open infraction proceedings which could result in a large fine and prove costly in terms of the resource required to deal with the process. If the UK failed to implement the Regulations, the EU Commission could impose sanctions such as banning the export of horse meat from the UK or removing authorisations for the veterinary medicines which should not to be administered to horses for human consumption. Both sanctions would have significant financial and welfare implications.
14. Failure to implement would mean that the derogation for semi-feral foals moving directly from a designated area to a slaughterhouse without the need of a passport could not be applied.

Costs

14. Minimum implementation of the EU Regulation with use of selected derogations reduces implementation costs. The cost of the key changes are summarised at a UK level as follows. Costs are not available on a Wales only basis.
 - **Micro-chips** – Approximately 50,000 foals are born each year in the UK, 50% of these already require micro-chipping to comply with Breed Society / Weatherby rules. Therefore, an additional 25,000 foals each year will be required, as a result of this regulation, to be micro-chipped. However, micro-chipping would remove the requirement for a completed silhouette. It is assumed that the per unit cost of micro-chipping is £60, which is comparable to the cost of obtaining a silhouette completed by a vet. It is assumed that, for 70% of the foals that are currently not micro-chipped, the silhouette is completed by a vet. This means that there is no additional cost for these foals under the new regime. The remaining 30% of silhouettes are completed by an

authorised identifier / breeder at an average cost of £23 per horse, micro-chipping these foals would cost on average £60 per foal including call out fee – this gives an increased cost of £37 per foal.

- **Veterinary treatment** – Veterinary surgeons are required to treat horses as if they are intended for the food chain if their food chain status is unknown or the passport is not present. In practice this means using more expensive alternatives, e.g. Phenylbutazone (which is not suitable for use in animals intended for the food chain) costs £2.60 per treatment. Its alternatives, Finadyne and Metacam cost £4.24 and £10.98 respectively. Approximately 50,000 horses are treated in emergency situations each year. Assuming that 40% of these cases the passport was not present or the horse's status was not known to the vet, this would result in an additional cost of at least £32,800 per year (assuming that Finadyne would replace Phenylbutazone in all cases), to a maximum of £167,600 per year. Other drugs that could not be used in cases of unknown status include Chloramphenicol for which the alternatives are cheaper and Metronidazole, for which there is no available alternative, but its use is very limited and usually administered to hospitalised horses. The horse would be signed out of the food chain if this substance had to be used.
- **Passport Issuing Organisations (PIOs)** - the cost of updating the format of the passport will be passed on to horse owners. PIOs have estimated that this requirement will add £0.50p to the cost per passport for the next 5 years.
- **Identification of imported equidae** – The numbers of third country passports that are compliant with EU requirements is thought to be negligible. The regulation allows existing papers to be made up into a passport which would represent a cost saving of £5 per passport. There are approximately 1,900 third country imports each year and it is assumed that 50% of these would benefit from this change in legislation.
- **Derogations for semi-feral ponies** – The cost saving from exercising this derogation is the cost of micro-chipping semi-feral foals that are managed by the Hill Pony Improvement Societies of Wales and the Cymdeithas Merlod y Carneddau. Approximately 750 foals will come under the rules of the derogation as managed by these two organisations.
- **Alternative methods of identification** - Semi-feral ponies managed by the Hill Pony Improvement Societies of Wales and the Cymdeithas Merlod y Carneddau will be covered by a derogation which will allow them to move to a specified sale premises with a passport application form and tamper proof rump sticker (cost negligible). Those animals that are sold to private homes will be required to be micro-chipped before leaving the sale premises – these costs will fall to the purchaser. If this derogation was not applied under the new Regulation, the ponies

would have to be identified and micro-chipped before being sent to a sale resulting in animal welfare and health and safety risks associated with micro-chipping the animals in the wild. Ponies being sold for slaughter from the sale may do so if they are accompanied by the passport application form and rump sticker. This will save the vendor from the expense of obtaining a passport and the slaughterhouse from being responsible for micro-chipping costs.

- **Other costs**

- a. Zebras now fall within the scope of the Regulations, however it is estimated that there are less than 6 in Wales.
- b. The new keeper requirements of the Regulation will require owners of livery yards (excluding DIY livery) to check horse in their care against their passports to ensure compliance. It could be argued that these checks should be done routinely however it has been estimated that it would take a staff member at a livery yard approximately 15 minutes to complete the checks at a cost of £2 (based on a wage cost of £8 an hour.)
- c. The Regulations require passport issuers to provide temporary documents to the owner when the passport is returned for updating but only if it cannot be returned to the owner within 5 working days. It is estimated that around 10% of the total number of passports issued (980,000 as recorded on the National Equine Database) are returned for updating per year at an approximate cost of £2 per document which includes 15 minutes PIO time. The updating of passports is not a new requirement, the majority of PIOs make a charge to update / amend passport details.
- d. In the event of a disease outbreak Animal Health have indicated that the signing of the movement restriction pages in the passport could be undertaken as part of the initial disease outbreak visit and would represent no additional costs. In order to re-sign the passport to lift the movement restrictions it has been estimated that it would cost Animal Health in the region of £240 per visit. However, it is not possible to predict numbers of outbreaks or the numbers of holdings affected.
- e. All equine slaughterhouses are situated in England; Defra have agreed with MHS that the current Service Level Agreement funding is sufficient to enforce the requirement to remove micro-chips from horses intended for the food chain.

Competition Assessment

15. The legislation is unlikely to have a negative impact on competition as all areas of the industry will have to adhere to the same rules. Within the transponder supply market, it is considered that the new rules may even promote additional competition as the increase in the use of transponders

may encourage other companies to venture into this market, which is currently only served by 4 companies.

Consultation

16. A 3 month public consultation on the Commission Regulation ran from the 12th November 2008 – 11th February 2009. The consultation was sent to Passport Issuing Organisations / Breed Societies in Wales, stakeholders and other specialist organisations with an interest in equine ID, namely:

The Standard & Trotting Horse Association of Great Britain and Ireland
The British Palomino Society
The Lusitano Breed Society of Great Britain
The Lipizzaner National Studbook Association of Great Britain
The Fjord national Studbook Association of Great Britain
The Veteran Horse Society
The Dartmoor Pony Society
The Appaloosa Horse Club UK Ltd
The Welsh Pony & Cob Society
Welsh Mountain Pony Improvement Societies
Commoners Associations
Livery Yards / Riding Schools / Trekking Centres / Equine Colleges
Markets / Auctioneers
Local Authorities
National Trust
Equine Transporters
FUW
NFU Cymru
Equine welfare Groups
Large Animal Veterinary Practices
The Welsh Mountain Zoo
Wales Young Farmers' Clubs
Welsh Assembly for Women
Police Headquarters
Cardiff Gypsy Site Group
Commission for Racial Equality
Race Equality Council

17. Of the organisations consulted 33 responded, the majority of which commented on the derogation proposals for semi-feral ponies and the requirement for vets to insert micro-chips.

18. As a result of the consultation the Welsh Assembly Government has been able to work with the organisations applying for a derogation for specific groups of semi-feral ponies to develop the initial proposals put forward. As a result of these discussions the Minister for Rural Affairs has been able to agree in principle to exercising a derogation subject to satisfactory evidence being provided and agreement from the European Commission.

Post Implementation review

19. It is proposed to review and evaluate this legislation in 5 years, at which time industry and stakeholders will be asked to provide information and data on the actual costs of the measures and to give an indication of the achievement of the regulations' aims.

Summary

20. The main provision of the new Commission regulation is the strengthening of the link between the horse and the information on its medicinal treatment stored on its passport to reduce the risk of unsuitable horses entering the food chain. The Commission Regulation is directly applicable in all EU Member States. The Equine Identification (Wales) Regulations 2009 define offences, penalties, derogations and some additional provisions necessary to implement the Commission regulation in Wales. The main features of Commission Regulation 504/2008 which came into force on 1 July 2009 are:

- Extends the passport rules to zebra and other exotic equidae not previously covered;
- Places responsibilities on keepers to ensure equidae are correctly identified;
- Passports issued after 30 June 2009, foals (and adult equines not previously issued with a passport) must have a micro-chip implanted containing a unique number;
- Provides exemptions from passports and micro-chip requirements for animals kept under wild or semi wild conditions;
- Requires equidae to be accompanied by their passport at all times with some exceptions, notably, when stabled or at pasture or moved on foot where the passport can be retrieved within 3 hours;
- Allows Member States to authorise the use of 'smart cards' instead of paper passports to accompany equidae moving within national boundaries;
- Provides clarification on the use of passports, for restricting movements, during the outbreak of an exotic equine disease;
- Tightens the requirements for passports to be available and updated at the time of any administration of veterinary products; and
- Introduces a revised passport format which includes a new Certificate of Origin to record pedigree details and a new section to be used in the event of a disease outbreak.

21. As this legislation affects all equines, irrespective of their geographical location, it is not felt that any person or area will be disproportionately affected by the measures introduced.